

**NOT FOR PUBLICATION**

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

ZORAN BALAC, et al.,	:	CIVIL ACTION NO. 09-1762 (MLC)
Plaintiffs,	:	<b>MEMORANDUM OPINION</b>
v.	:	
TIMOTHY J. OSBORN, et al.,	:	
Defendants.	:	

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**THE COURT** notified the plaintiffs that the Complaint would be dismissed on September 30, 2009, unless the plaintiffs established that service had been effected ("Notice"). (See dkt. entry no. 5, 9-18-09 Order.) This action, which was commenced on April 9, 2009, has now been pending for 120 days without the plaintiffs having served the defendants, and thus the Court, inter alia, "on motion or on its own after notice to the plaintiff[s] – must dismiss the action without prejudice". Fed.R.Civ.P. 4 (m) (emphasis added); see Sykes v. Blockbuster Video, 205 Fed.Appx. 961, 963-64 (3d Cir. 2006); Liu v. Oriental Buffet, 134 Fed.Appx. 544, 546 (3d Cir. 2005).

**THE PLAINTIFFS** failed to respond to the Notice. The Court will therefore dismiss the Complaint for the plaintiffs' failure to comply with Federal Rule of Civil Procedure 4(m). For good

cause appearing, the Court will issue an appropriate order and judgment.<sup>1</sup>

s/ Mary L. Cooper  
**MARY L. COOPER**  
United States District Judge

Dated: October 6, 2009

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<sup>1</sup> The Court notes that whether the plaintiffs "did or did not receive the District Court's . . . order which directed . . . compl[iance] with Rule 4 is irrelevant; [the plaintiffs were] still expected to comply with the rules of procedure". Sykes, 205 Fed.Appx. at 963.